

Pension Benefit Guaranty Corporation

§ 4041.43

for a reasonable business purpose, the PBGC will disregard such act or failure to act in determining whether the person has satisfied any of those criteria.

(f) *Requests for deadline extensions.* The PBGC may extend any deadline under this subpart in accordance with the rules described in section § 4041.30, except that the PBGC will not extend—

(1) *Pre-distribution deadlines.* The 60-day time limit under § 4041.43(a) for issuing the notice of intent to terminate; or

(2) *Post-distribution deadlines.* The deadline under § 4041.50 for filing the post-distribution certification.

§ 4041.42 Administration of plan during termination process.

(a) *General rule.* Except to the extent specifically prohibited by this section, during the pendency of termination proceedings the plan administrator must continue to carry out the normal operations of the plan, such as putting participants into pay status, collecting contributions due the plan, and investing plan assets.

(b) *Prohibitions after issuing notice of intent to terminate.* The plan administrator may not make loans to plan participants beginning on the first day he or she issues a notice of intent to terminate, and from that date until a distribution is permitted pursuant to § 4041.50, the plan administrator may not—

(1) Distribute plan assets pursuant to, or (except as required by this part) take any other actions to implement, the termination of the plan;

(2) Pay benefits attributable to employer contributions, other than death benefits, in any form other than as an annuity; or

(3) Purchase irrevocable commitments to provide benefits from an insurer.

(c) *Limitation on benefit payments on or after proposed termination date.* Beginning on the proposed termination date, the plan administrator must reduce benefits to the level determined under part 4022, subpart D, of this chapter.

(d) *Failure to qualify for distress termination.* In any case where the PBGC determines, pursuant to § 4041.44(c) or § 4041.46(c)(1), that the requirements for

a distress termination are not satisfied—

(1) The prohibitions in paragraph (b) of this section, other than those in paragraph (b)(1), will cease to apply—

(i) Upon expiration of the period during which reconsideration may be requested under §§ 4041.44(e) and 4041.46(e) or, if earlier, at the time the plan administrator decides not to request reconsideration; or

(ii) If reconsideration is requested, upon PBGC issuance of its decision on reconsideration.

(2) Any benefits that were not paid pursuant to paragraph (c) of this section will be due and payable as of the effective date of the PBGC's determination, together with interest from the date (or dates) on which the unpaid amounts were originally due until the date on which they are paid in full at the rate or rates prescribed under § 4022.81(c)(3) of this chapter.

(e) *Effect of subsequent insufficiency.* If the plan administrator makes a finding of subsequent insufficiency for guaranteed benefits pursuant to § 4041.49(b), or the PBGC notifies the plan administrator that it has made a finding of subsequent insufficiency for guaranteed benefits pursuant to § 4041.40(d), the prohibitions in paragraph (b) of this section will apply in accordance with § 4041.49(e).

[62 FR 60428, Nov. 7, 1997, as amended at 63 FR 29355, May 29, 1998]

§ 4041.43 Notice of intent to terminate.

(a) *General rules.* (1) At least 60 days and (except with PBGC approval) no more than 90 days before the proposed termination date, the plan administrator must issue a written notice of intent to terminate to each person who is an affected party as of the proposed termination date.

(2) The plan administrator must issue the notice of intent to terminate to all affected parties other than the PBGC at or before the time he or she files the notice with the PBGC.

(3) The notice to affected parties other than the PBGC must contain all of the information specified in paragraph (b) of this section.